

**FOR IMMEDIATE RELEASE**  
April 3, 2008

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**KENNEDY CALLS FOR OSHA RESPONSE TO TEXAS CITY REFINERY  
DISASTER**

*Chemical Safety and Hazard Investigation Board's finding have been ignored*

WASHINGTON, DC— Today, Senator Edward M. Kennedy sent the following letter to the Assistant Secretary of Labor for Occupational Safety and Health, Ed Foulke, calling attention to the three years that have passed since the disaster at the Texas City Refinery, and the full year that has passed since the Chemical Safety and Hazard Investigation Board's recommendations, with inadequate action from OSHA.

Senator Kennedy said, "It has been a whole year since the Chemical Safety and Hazard Investigation Board found that OSHA's failures had contributed to the terrible tragedy at the Texas City Refinery, which took 15 lives. BP's employees have paid a high price for OSHA's inaction. The American public deserves to know why OSHA is ignoring the Board's recommendations."

The text of the letter appears below.

April 3, 2008

Ed Foulke  
Assistant Secretary of Labor for Occupational Safety and Health  
Department of Labor  
Occupational Safety & Health Administration  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Mr. Foulke:

On March 23, 2005, the British Petroleum Texas City refinery suffered a major industrial disaster when a tragic explosion killed 15 workers and injured more than 170 others. In March 2007, after an extensive investigation, the U.S. Chemical Safety and Hazard Investigation Board released its investigative report, which found that OSHA had contributed to the tragedy by its failure to vigorously enforce its Process Safety Management standard (29 CFR 1910.119) at oil and petrochemical facilities.

To protect other workers from suffering the same fate as the Texas City workers, the Board made several recommendations for action by OSHA to curb the danger to workers in oil, petrochemical, and chemical plants. Specifically, the Board

recommended that OSHA improve training for process safety management inspectors and revise its process safety management standard so that workers' safety isn't overlooked when corporate management changes, as happened at Texas City shortly before the explosion.

It is now three years after the tragedy occurred and one year after the Board issued its report and I'm writing to inquire what OSHA has done to address the Board's concerns and recommendations. As you know, the lives and well-being of thousands of workers in the oil, petrochemical, and chemical industries depend upon OSHA's response.

In order to help me assess OSHA's response to the BP tragedy, please respond to the information and document request attached by April 16<sup>th</sup>. If you have any questions or need further information, please contact Sandra Gallardo or Nick Bath, counsels to the Committee, at (202) 224-3112.

With much respect and appreciation, and thank you for your assistance.

Sincerely,

Edward M. Kennedy

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Please produce the documents described below by delivering them to the office of the Senate Committee on Health, Education, Labor and Pensions, Hart Senate Office Building, Suite 615, Washington D.C. 20510, attention: Sandra Gallardo or Nick Bath, at or before 5 p.m. on April 16, 2008.

**Information and Documents Requested**

1. Please provide a detailed account of all actions OSHA has taken since March 2005 to address the concerns raised by the Texas City BP refinery explosion, including, but not limited to, listing the number of inspections OSHA has conducted at oil, petrochemical or chemical plants or facilities since March 2005; the number of agency employees hired and trained in the principles of conducting thorough PSM inspections; details about the Petroleum Refinery PSM National Emphasis Program that OSHA launched in June 2007; and any other programs created to identify plants or facilities at greatest risk of catastrophic accidents by using available indicators of process safety performance and information.

2. Please produce a list of the names and locations of all the facilities covered by the OSHA National Emphasis Program that was launched in June 2007 for inspecting petroleum refineries.

3. Please produce the number of plants or facilities that must comply with OSHA's Process Safety Management of Highly Hazardous Chemicals standard, 29 CFR 1910.119, categorized by industry sector.

4. OSHA has declined to update or strengthen the PSM Standard in light of the March 2007 recommendations of the Chemical Safety and Hazard Investigation Board. Under the Clean Air Act (42 USCS § 7412), when the Board issues a recommendation to OSHA, the Secretary of Labor must act on that recommendation and

“[a]ny determination by the Secretary not to implement a recommendation or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.” Please produce the Secretary’s statement that set forth the reasons for declining to update or strengthen the PSM standard in light of the Board’s March 2007 recommendations.

5. Please produce all documents, including but not limited to, handwritten notes, emails, correspondence, communications, reports, memoranda, and records, concerning, referring or relating to OSHA’s consideration of the Board’s March 2007 recommendations and OSHA’s subsequent decision not to update or amend the PSM standard. This request includes, but is not limited to, all documents and correspondence exchanged between OSHA and the Board that led up to OSHA’s decision not to update or amend the PSM standard.

6. Please produce a list of all explosions or incidents related to process safety management failures that have occurred since March 2005. Please note fatalities related to any incident listed.

7. Please produce all documents, including but not limited to, handwritten notes, emails, correspondence, communications, reports, memoranda, and records that OSHA refused to produce to the Board during the course of the Board’s two-year investigation into the BP refinery disaster, as well as OSHA’s basis for withholding each such document or set of documents.

### **Instructions and Definitions**

A. The term “OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor, its directors, members, trustees, officers,

employees, agents, representatives, and all persons in active concert or participation with them in the administration of the affairs of OSHA, including attorneys.

B. The term “CSB” means the U.S. Chemical Safety and Hazard Investigation Board, its directors, members, trustees, officers, employees, agents, representatives, and all persons in active concert or participation with them in the administration of the affairs of the Board, including attorneys.

C. All entities named herein shall include any of the directors, members, trustees, officers, employees, agents, and representatives thereof, including attorneys, and each of its parent companies, subsidiaries, affiliates, subcontractors and predecessors.

D. “All” means “any and all” and the word “any” means “any and all.”

E. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the request or definition inclusive rather than exclusive. The singular shall be construed to include the plural and the plural to include the singular.

F. “Concerning” means relating to, referring to, describing, reflecting, evidencing or constituting.

G. “Communicate” or “communication” means every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of ideas or information, whether orally, by document, or electronically, or whether face-to-face, by telephone, mail, personal delivery, electronic transmission or otherwise.

H. “Document” means all original written, typed, printed, pictorial, reproduced, recorded or other material bearing representations or symbols of any sort, as well as any copies that differ in any way from the original, in recipient’s actual or constructive possession, custody, care or control, including without limitation, all writings, account

letters, account recommendations, appointment books, books, books of accounts, calendars, CD-ROMs, charts, computer files, computer printouts, contracts, cost sheets, data compilation from which information can be obtained or can be translated through detection devices into reasonably usable form, diaries, drafts, drawings, e-mails, faxes, graphs, hotel charges, invoices, ledgers, magnetic discs, magnetic strips, magnetic tape, memoranda, microfiche, microfilm, minutes, notes, optical characters, papers, photographs, punched cards, punched paper tapes, receipts, recognition characters, reports, sound tapes or recordings, statements, statistical records, stenographer notebooks, studies, telegraphs, time sheets or logs, video tapes or recordings, vouchers, weigh tickets, working papers, or any other tangible thing.

I. Each request for production of documents herein shall be deemed continuing so as to require prompt supplemental responses if further documents called for herein are obtained or discovered after the time of responding to this request.

J. If any documents, or parts of documents, called for by this request are withheld for any reason, a list shall be furnished setting forth as to each such document the following information: (a) the nature of the document, *e.g.*, letter, memorandum, telegram, etc.; (b) the name, address, occupation, title and business affiliation of each person who prepared, received, viewed and has or has had possession, custody or control of the document; (c) the date of the document; (d) a description of the subject matter of the document; (e) a statement of the basis upon which the privilege or work product claim is made; and (f) the paragraph(s) of this request that call for the production of the document.

K. Responsive documents shall be produced as they have been kept in the ordinary course of business or shall be organized and labeled to correspond with the enumerated requests in this request. If with respect to any category there are no responsive documents, please so state in writing.

L. If any documents, or parts of documents, called for by this request have been destroyed, discarded, or otherwise disposed of, a list shall be furnished setting forth as to each document the following information: (a) the nature of the document, *e.g.*, letter, memorandum, telegram, etc.; (b) the name, address, occupation, title, and business affiliation of each person who prepared, received, viewed, and has or has had possession, custody or control of the document; (c) the date of the document; (d) a description of the subject matter of the document; (e) the date of the destruction or other disposition; (f) a statement of the reasons for the destruction or other disposition; (g) the name, address, occupation, title and business affiliation of each person who authorized destruction or other disposition; (h) the name, address, occupation, title and business affiliation of each person who destroyed or disposed of the document; and (i) the paragraph(s) of this request which call for the production of the document.

M. If images or OCR records of submitted documents exist as computer file(s) or are created in connection with this request, please provide the images and OCR records in machine-readable form.

N. If any information or data is withheld because such information or data is stored electronically, please identify it by the subject matter of the information or data and the place or places where such information is maintained.